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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,217	01/21/2004	Franky Bru	ESKO-037	2194
21921	7590	12/24/2008		
DOV ROSENFELD 5507 COLLEGE AVE SUITE 2 OAKLAND, CA 94618			EXAMINER DHINGRA, PAWANDEEP	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 12/24/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,217

Applicant(s)

BRU, FRANKY

Examiner

PAWANDEEP S. DHINGRA

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

- This action is responsive to the following communication: Request for Continued Examination (RCE) filed on 12/09/2008.
- Claims 1-20 are pending in the present application.

Response to arguments

Applicant's arguments filed 12/09/2008 with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/09/2008 has been entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 14, 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14, 16-17, recite the limitation "said computer-generated image". There is insufficient antecedent basis for this limitation in the claim.

(Examiner notes that if "said three-dimensional computer-generated image" is same as "said computer-generated image", then applicant needs to clearly specify that. Therefore, for rejection purposes, "said computer-generated image" is treated to be any of 2D or 3D computer-generated image).

Examiner Notes

Examiner cites particular paragraphs, columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 and 19-20 are rejected under 35 U.S.C. 103 as being unpatentable over Score! X Training Manual and User Guide, product of Dimensional Impressions Score! X, © 2002 Dimensional CAD/CAM Systems, Inc, Encino, CA in view of Tacke, US 2003/0098994.

Re claim 1, Score! X discloses a computer-implemented method (see pages 4-5) comprising: (a) accepting (see open, page 4) structural information relating to carton constructed of a planar substrate (specific design, page 4, note that user can select any design file relating to carton) that will be cut (page 55 shows fold angles, where carton will be folded or cut) and folded to yield a three-dimensional carton (page 18 shows a 3-D tab) having surface regions that will be printed (pages 30-32 show printing) with graphics (page 16 shows loading of graphics) (see pages 21 and 68, note that once done with processing, the carton design will be exported to the printing press or 3rd party for actual cutting and printing); (b) creating a three-dimensional computer-generated image of said carton on a computer monitor (page 18 shows 3-D images); (c) accepting said graphics or interacting with a user to design said graphics to cover said surface regions of said carton (note that a 3D design of the carton can be created (page 14) before loading full-size graphics, which are designed specifically to cover said surface regions of given carton, page 12); (d) interacting with said user to superimpose said graphics accepted or designed at step (c) wherein said three-dimensional computer-generated image includes said superimposed graphics (page 18 shows 3-D image with same graphics as created for 2-D image, page 17); (e) interacting with said user to manipulate, as required, said graphics accepted or designed at step (c) to cover

relevant said regions, as viewed on said computer-generated image on said computer monitor (note that user can manipulate (modify) the graphics (re-size (page 11) or stretch (view all button), page or rotate (page 13) or align) to cover relevant regions and the same modifications can be viewed in 3D space, plus, view all (stretching of graphics, page 17) or rotation or alignment manipulation of graphics to cover regions can be done in 3D as well {for instance, see page 20, view all button is not faded-up and can be accessed}); (f) receiving from said user, said user confirming from visualizing said computer-generated image created at step, (e), an indication of acceptability of graphics covering relevant said regions, and modifications, if required, of said graphics {note that user confirms from visualizing the image and graphics on screen and indicates acceptability, if no further modifications required, by clicking the save button (page 23) and saving the Score! X design file as zip file (page 23) or HPGL file format (page 68), which can be exported for next processing step (page 23) and/or printing or can click print button (page 32), otherwise modifications can be performed, if required, see explanation given above for step (e) and page 32, see also pages 28-30, 64-67}; and (g) determining and outputting computer-readable data containing said accepted or designed graphics whose acceptability was received at step (f) (see pages 21-22 and 28-32).

However, Tacke teaches (g) determining and outputting computer-readable data containing accepted or designed graphics (see element 2, fig. 1) whose acceptability was received (see paragraph 38, note that operator confirms and indicates acceptability from visualizing the proof data of computer-generated image on a display providing the

final appearance of the package), said computer-readable data usable for printing of said graphics upon at least some surface regions of said planar substrate (see paragraph 38). Tacke also teaches receiving from a user, said user confirming from visualizing computer-generated image created, an indication of acceptability of graphics covering relevant regions (see figure 1 and paragraph 38, note that operator confirms and indicates acceptability from visualizing the proof data of computer-generated image on a display providing the final appearance of the package).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify the 3-D package designing system of Score! X with method and system for producing proof data for package printing as taught by Tacke for the benefit of "producing proof data that agree exactly with the package subsequently produced" as taught by Tacke at paragraph 11

Re claim 2, Score! X further teaches wherein at step (a), said structural information includes at least one of (i) a pattern showing cuts to be made on said planar substrate to define at least one of a panel and a flap, (ii) information defining where at least one of a panel and a flap are to be folded through a fold angle, and (iii) information relating to composition of said substrate (pages 53-56 show fold angles and folding lines).

Re claim 3, Score! X further teaches including generating at least one clipping mask to avoid printing on a surface of said carton that is not visible when fabrication of said carton is complete (see page 40).

Re claim 4, Score! X further teaches identifying regions of graphics to be printed on said carton that are likely to experience printing ink bleeding and compensating for such bleeding in laying out said regions of said graphics (see Score! X, page 43)

Re claim 5, Score! X further teaches wherein manipulating at step (e) includes at least one of (i) rotation, (ii) scaling, (iii) copying, (iv) cutting, and (v) pasting (note that user can manipulate (modify) the graphics (re-size (page 11) or stretch (view all button), page or rotate (page 13) or align) to cover relevant regions and the same modifications can be viewed in 3D space, plus, view all (stretching of graphics, page 17) or rotation or alignment manipulation of graphics to cover regions can be done in 3D as well {for instance, see page 20, view all button is not faded-up and can be accessed}, see also page 45).

Re claim 6, Score! X in view of Tacke further teaches providing said computer-readable data output at (g) as input to a carton fabrication system (see Score! X, pages 23, 60, 68, note that the computer readable file can be emailed or saved on a disk, and using email or disk as an input to a any kind of fabrication system is well-known in the art; Tacke, figure 1).

Re claim 7, Score! X further teaches wherein said graphics are designed for printing on a carton having at least five surfaces (see page 19).

Re Claims 8-13, claims 8-13 recite identical features, as claims 1-6, except claims 8-13 are apparatus claims. Thus, arguments made for claims 1-6 are applicable for claims 8-13.

Re Claims 14-15, claims 14-15 are essentially similar to claims 1 & 6 and are rejected on the same grounds.

Re claims 16 is essentially similar to claim 1 and is rejected on the same grounds.

Re claims 17 is essentially similar to claim 16 and is rejected on the same grounds.

Re claims 19-20 are essentially similar and recite same elements as claims 2-4 and are rejected on the same grounds.

5. Claim 18 is rejected under 35 U.S.C. 103 as being unpatentable over Score! X Training Manual and User Guide, product of Dimensional Impressions Score! X, © 2002 Dimensional CAD/CAM Systems, Inc, Encino, CA in view of Tacke, US 2003/0098994 further in view of well known art.

Re claim 18, Score! X fails to teach wherein said substrate is printed with said graphics before said substrate is cut.

However, Official Notice is taken to note that ability to print the substrate with said graphics before said substrate is cut is notoriously well known and commonly used in the art. It would have been obvious to one with ordinary skill in the art to input the output file of Score! X to a carton fabrication system, which prints the substrate with said graphics before cutting said substrate for the benefit of providing a substrate with precisely printing as desired by the user. Also note that applicant's disclosure discloses

in paragraph 31 that *"Carton fabrication system 300 benefits from aspects of the present invention, but need not be considered part of aspects of the present invention"*. Furthermore, printing the substrate with said graphics before said substrate is cut is also notoriously well known and commonly used in the art of carton fabrication system.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAWANDEEP S. DHINGRA whose telephone number is (571)270-1231. The examiner can normally be reached on M-F, 9:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. D./
Examiner, Art Unit 2625

/David K Moore/
Supervisory Patent Examiner, Art Unit 2625